

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

IN RE NEW JERSEY TAX SALES CERTIFICATES ANTITRUST LITIGATION	Master Docket No.: 3:12-CV-01893-MAS-TJB
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**THIRD SUPPLEMENTAL DECLARATION OF KENNETH JUE ON  
BEHALF OF SETTLEMENT ADMINISTRATOR RE FINAL DISTRIBUTION**

I, KENNETH JUE, declare:

1. I am employed as a senior project manager on this case by Gilardi & Co. LLC, a KCC company (“Gilardi”), located at 3301 Kerner Blvd., San Rafael, California. Gilardi was appointed by the Court to serve as the Settlement Administrator in this case,<sup>1</sup> and as the senior project manager, I oversaw the administrative services provided. I have personal knowledge of the facts set forth herein and, if called as a witness, could and would testify competently thereto.

**A. The Claims Distribution Process**

2. In December 2018, in an effort to simplify the distribution process, Gilardi created a Qualified Settlement Fund (“Distribution QSF”) distribution account for this case which was established at Huntington Bank. Prior to the establishment of the Distribution QSF, all of the settlement monies in this case were held in 19 different QSF’s at Huntington Bank that were specific to certain

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<sup>1</sup> See November 4, 2015 Order at ECF No. 428, ¶ 2.

settlements in this case. The Distribution QSF was established so that settlement funds distributed to valid claimants could be done from a single account, as opposed to taking each claimant's *pro rata* distribution from each of the different 19 settlement funds which would have been a laborious and cumbersome undertaking, and ultimately, result in additional processing costs.

3. In December 2018, the total settlement monies across all 19 settlement funds (before distribution to the Distribution QSF) was \$9,630,894.90. Prior to December 2018, the only debits and credits associated with each of the 19 settlement accounts were interest paid by the Escrow Bank (Huntington Bank) on each account (credits), and tax preparation fees for all accounts for multiple years, and tax liabilities on certain accounts for multiple years (debits).<sup>2</sup> In December 2018, \$9,594,920.90 was transferred to the Distribution QSF from across all 19 settlement funds. Approximately \$41,300 was left in the 19 different settlement accounts to pay for tax preparation fees and anticipated tax liabilities associated with each of the 19 settlement accounts for subsequent tax years. Following the transfer of the monies from the 19 settlement accounts to the Distribution QSF in December 2018, the 19 settlement accounts utilized \$22,893 for tax preparation fees<sup>3</sup> and tax liabilities<sup>4</sup> for

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<sup>2</sup> If the Court required accountings from each settlement account from inception, such accounting could be provided.

<sup>3</sup> The tax preparation fees for 2018 taxes totaled \$12,825 for all 19 returns.

the 2018 tax year. The 19 settlement accounts earned a total of \$1,673.11 in interest between December 2018 and July 2019 and, on July 19, 2019, the balance of the 19 settlement accounts (\$20,044.11) was transferred to the Distribution QSF, and the 19 settlement accounts were then closed.

4. From December 19, 2018 to January 3, 2019, Gilardi issued a total of \$2,958,547.92 in attorneys' fees and costs approved in the Court's Order Granting Plaintiffs' Motion For an Award of Attorneys' Fees, Reimbursement of Expenses, and Incentive Awards to Named Plaintiffs.<sup>5</sup>

5. On February 3, 2020, Gilardi issued \$7,000 of \$14,000 in incentive awards to the two named plaintiffs that provided their taxpayer identification number via IRS Form W-9. Gilardi reserved \$7,000 in the Distribution QSF for the two remaining incentive awards to two named plaintiffs who had not provided an IRS Form W-9. However, those two named plaintiffs recently did provide their IRS Form W-9s and their incentive award checks were printed and mailed on or about May 19, 2020.

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<sup>4</sup> The total taxes owed for 2018 was \$10,068. There were four settlement funds which had tax liability; the other 15 did not have tax liability.

<sup>5</sup> ECF No. 476

6. On or about November 29, 2019, pursuant to this Court's order,<sup>6</sup> KCC distributed 287 class payments totaling \$6,447,970.52 by sending these claimants checks to their last known addresses. The checks had an initial stale date of February 27, 2020.

7. Since mailing these 287 checks, 27 checks have been returned as undeliverable by the United States Postal Service. An address search was run on the check payee's name and address and 9 checks were reissued with an updated address. The remailed checks had a stale date of April 14, 2020.

8. To date, a total of 255 checks to class members have been cashed totaling \$5,974,766.72. There are 32 class member checks that remain uncashed totaling \$473,203.80. In other words, approximately 88.9% of checks issued and 92.7% of dollars issued have cashed. Of the outstanding checks, one check is a reissued check that was returned as undeliverable in the amount of \$29,364.97. This check was reissued on April 14, 2020. In addition, Gilardi received a reissue request for an outstanding check issued in the amount of \$20,636.61 and a name change request for an outstanding check issued in the amount of \$58,101.66. After review of the request, the name change request was approved and both check reissues will be mailed by June 12, 2020.

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<sup>6</sup> ECF No. 521.

9. With the exception of the settlement payments in paragraph 7, all remaining outstanding checks are past their stale date and will be void with the bank and therefore uncashable. Below is a table summarizing the use of the settlement funds.

<b>Funds received to distribution account (in December 2018 and July 2019)</b>	<b>\$ 9,614,965.01</b>
<b>Funds Distributed</b>	
Funds Distributed to Class Members pursuant to November 29, 2019 Court Order	\$(6,447,970.52)
Attorney Fees & Costs Paid (from December 2018 through January 3, 2019)	\$(2,958,547.92)
Named Plaintiffs Service Awards Paid	\$ (14,000.00)
<b>Total Distributed Funds</b>	<b>\$ 194,446.57</b>
Reserve for administration fees	\$ (177,402.35)
Reserve for tax reporting expenses for 2019 tax year for 19 QSFs	\$ (17,032.24)
<b>Total Available After Subtracting Reserves</b>	<b>\$ 11.98</b>
Unused Reserve for tax reporting expenses for 2019 tax year for 19 settlement funds	\$ 4,207.24
Uncashed Checks from Distribution Pursuant to November 29, 2019 Court order	\$ 478,732.32
Reissued or pending reissue to Class Members	\$ (58,101.66)
	\$ (29,364.97)
	\$ (20,636.61)
<b>Amount Available for cy pres or residual</b>	<b>\$ 374,848.30</b>

10. Attached as Exhibit 1 is a table which identifies each of the claimants who have cashed their initial distribution checks, or, are the subject of a reissued check, and what their pro rata portion of the \$374,848.30 remaining settlement funds is if a residual distribution were to be approved. To calculate these amounts, Gilardi used the Plan of Allocation approved by this Court. Namely, the approved lien amount, multiplied by the interest rate, and aggregated all eligible claims and prorated against the net funds available for each settlement to arrive at their eligible check amount.

**B. The work Gilardi/KCC has performed as Settlement Administrator**

11. To date, Gilardi has not been paid anything for the services it has rendered in this case. Since inception of the case through January 30, 2020, Gilardi has incurred \$197,513.20 in fees and expenses associated with administering the notice program and settlements in this case. This amount includes over \$85,000 for the notice media plan and \$29,000 for postage costs. In addition, Gilardi incurred hours or expenses for website development, database work, printing, claims processing, phone charges, project management, distribution set up, and check issuance.<sup>7</sup> Prior to distribution, at the request of Class Counsel, Gilardi agreed to

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<sup>7</sup> For a more fulsome description of the work that Gilardi performed, see my prior declarations at ECF Nos. 467, and 517.

provide a discount on their total fees and expenses down to \$177,402.35. Gilardi is requesting approval to pay itself \$177,402.35 from the Distribution QSF.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this declaration was executed this 4<sup>th</sup> day of June, 2020.

  
Kenneth Jue

# Exhibit 1



**Exhibit 1 - Prorated Residual Distribution**

ClaimID	Residual Payment Amount
NJTS1-100013082	\$1,191.82
NJTS1-100027520	\$1,430.48
NJTS1-100037267	\$423.90
NJTS1-100048838	\$813.12
NJTS1-100049583	\$784.34
NJTS1-100050247	\$635.85
NJTS1-100053726	\$2,610.35
NJTS1-100058493	\$53.85
NJTS1-100074480	\$109.76
NJTS1-100079890	\$523.53
NJTS1-100089763	\$1,028.69
NJTS1-100091164	\$2,166.93
NJTS1-100100570	\$9,613.80
NJTS1-100101119	\$1,271.70
NJTS1-100101739	\$29.47
NJTS1-100112048	\$1,007.45
NJTS1-100115314	\$1,271.70
NJTS1-100132596	\$1,146.59
NJTS1-100133339	\$997.67
NJTS1-100140254	\$916.85
NJTS1-100149855	\$211.95
NJTS1-100149960	\$543.41
NJTS1-100153216	\$127.75
NJTS1-100161596	\$419.24
NJTS1-100169503	\$100.38
NJTS1-100170030	\$311.31
NJTS1-100174680	\$1,297.82
NJTS1-100179916	\$1,303.67
NJTS1-100181570	\$1,271.70
NJTS1-100184006	\$3,948.41
NJTS1-100189857	\$1,204.41
NJTS1-100193463	\$423.90
NJTS1-100201440	\$3,920.61
NJTS1-100217656	\$343.44
NJTS1-100223117	\$94.77
NJTS1-100223508	\$1,949.47
NJTS1-100223613	\$171.67
NJTS1-100224148	\$138.43
NJTS1-100225683	\$140.32
NJTS1-100233732	\$1.63
NJTS1-100250327	\$2,156.84
NJTS1-100255779	\$19,816.07
NJTS1-100263437	\$565.20
NJTS1-100281311	\$4,623.97

**Exhibit 1 - Prorated Residual Distribution**

ClaimID	Residual Payment Amount
NJTS1-100302203	\$3,791.08
NJTS1-100303366	\$152.27
NJTS1-100303765	\$422.66
NJTS1-100304303	\$972.53
NJTS1-100306110	\$353.25
NJTS1-100307736	\$1,203.63
NJTS1-100311415	\$1,419.66
NJTS1-100316263	\$2,370.78
NJTS1-100333087	\$322.50
NJTS1-100333826	\$2,594.67
NJTS1-100335640	\$5,100.86
NJTS1-100336841	\$834.94
NJTS1-100337511	\$19.66
NJTS1-100341500	\$948.09
NJTS1-100343376	\$2,610.47
NJTS1-100344585	\$1,271.70
NJTS1-100346359	\$8.63
NJTS1-100346707	\$108.85
NJTS1-100354386	\$276.35
NJTS1-100357067	\$3,826.67
NJTS1-100358683	\$3,083.07
NJTS1-100371132	\$1,353.45
NJTS1-100411991	\$1,271.70
NJTS1-100416829	\$33.35
NJTS1-100417507	\$45.52
NJTS1-100421520	\$282.10
NJTS1-100441106	\$6,501.07
NJTS1-100443192	\$15,416.59
NJTS1-100454909	\$992.07
NJTS1-100464025	\$467.84
NJTS1-100466214	\$1,291.95
NJTS1-100484395	\$71.83
NJTS1-100494978	\$121.79
NJTS1-100495583	\$1,271.70
NJTS1-100499600	\$153.31
NJTS1-100505074	\$1,357.54
NJTS1-100529399	\$1,213.78
NJTS1-100530451	\$363.35
NJTS1-100533710	\$922.29
NJTS1-100539262	\$2,542.28
NJTS1-100539351	\$231.75
NJTS1-100540945	\$445.89
NJTS1-100550932	\$48.16
NJTS1-100552277	\$459.22

**Exhibit 1 - Prorated Residual Distribution**

ClaimID	Residual Payment Amount
NJTS1-100556426	\$1,694.25
NJTS1-100565514	\$25,987.01
NJTS1-100574181	\$1,427.76
NJTS1-100576915	\$2,376.36
NJTS1-100580157	\$1,162.13
NJTS1-100580211	\$1,271.70
NJTS1-100580440	\$186.12
NJTS1-100581668	\$706.50
NJTS1-100585213	\$494.55
NJTS1-100585396	\$2,857.50
NJTS1-100613179	\$62.83
NJTS1-100613403	\$968.03
NJTS1-100616950	\$168.07
NJTS1-100624057	\$1,325.60
NJTS1-100632092	\$1,317.20
NJTS1-100636349	\$371.82
NJTS1-100636624	\$128.04
NJTS1-100637949	\$2,860.73
NJTS1-100655424	\$3,580.43
NJTS1-100656897	\$62.43
NJTS1-100680615	\$421.91
NJTS1-100691080	\$1,201.05
NJTS1-100691862	\$1,634.84
NJTS1-100702937	\$6,657.63
NJTS1-100720862	\$49.92
NJTS1-100731589	\$81.26
NJTS1-100732909	\$1,271.70
NJTS1-100747523	\$164.33
NJTS1-100759009	\$51.46
NJTS1-100769233	\$895.31
NJTS1-100771157	\$1,059.75
NJTS1-100780946	\$2,990.13
NJTS1-100789463	\$706.50
NJTS1-100803113	\$706.50
NJTS1-100867880	\$1,271.70
NJTS1-100870511	\$1,743.68
NJTS1-100882730	\$2,089.00
NJTS1-100895077	\$5,493.34
NJTS1-100930301	\$1,079.38
NJTS1-100932800	\$303.73
NJTS1-100934161	\$1,196.96
NJTS1-400000008	\$2,316.80
NJTS1-400000024	\$1,271.70
NJTS1-400000032	\$1,721.05

**Exhibit 1 - Prorated Residual Distribution**

ClaimID	Residual Payment Amount
NJTS1-400000040	\$529.87
NJTS1-400000075	\$282.60
NJTS1-400000083	\$353.25
NJTS1-400000091	\$308.34
NJTS1-400000148	\$453.55
NJTS1-400000156	\$1,059.75
NJTS1-400000199	\$199.70
NJTS1-400000229	\$3,739.89
NJTS1-400000237	\$70.65
NJTS1-400000296	\$5,539.46
NJTS1-400000300	\$5,126.11
NJTS1-400000334	\$2,543.40
NJTS1-400000342	\$8,692.04
NJTS1-400000385	\$4,428.36
NJTS1-400000393	\$31.35
NJTS1-400000415	\$2,426.82
NJTS1-400000423	\$6,481.02
NJTS1-400000431	\$1,611.18
NJTS1-400000440	\$2,269.94
NJTS1-400000466	\$1,422.64
NJTS1-400000474	\$2,820.58
NJTS1-400000490	\$242.74
NJTS1-400000520	\$1,207.04
NJTS1-400000539	\$997.37
NJTS1-400000547	\$1,044.61
NJTS1-400000555	\$1,028.35
NJTS1-400000571	\$1,717.34
NJTS1-400000598	\$924.48
NJTS1-400000601	\$585.52
NJTS1-400000610	\$1,703.96
NJTS1-400000628	\$599.33
NJTS1-400000636	\$3,545.30
NJTS1-400000725	\$1,130.29
NJTS1-400000733	\$1,717.25
NJTS1-400000741	\$585.52
NJTS1-400000750	\$706.50
NJTS1-400000768	\$725.15
NJTS1-700000011	\$68.01
NJTS1-700000119	\$70.65
NJTS1-700000135	\$173.83
NJTS1-700000143	\$190.50
NJTS1-700000178	\$207.61
NJTS1-700000224	\$2,562.05
NJTS1-700000240	\$42.47

**Exhibit 1 - Prorated Residual Distribution**

ClaimID	Residual Payment Amount
NJTS1-700000291	\$304.77
NJTS1-700000313	\$1,271.70
NJTS1-700000321	\$292.73
NJTS1-700000330	\$1,810.63
NJTS1-700000348	\$287.12
NJTS1-700000356	\$1,776.25
NJTS1-700000364	\$691.95
NJTS1-700000372	\$131.48
NJTS1-700000380	\$734.91
NJTS1-700000399	\$357.45
NJTS1-700000402	\$184.46
NJTS1-700000410	\$347.88
NJTS1-700000585	\$153.59
NJTS1-700000593	\$885.02
NJTS1-700000607	\$212.93
NJTS1-700000666	\$565.20
NJTS1-700000690	\$83.06
NJTS1-700000712	\$471.81
NJTS1-700000739	\$1,271.70
NJTS1-700000763	\$1,136.08
NJTS1-700000780	\$1,271.70
NJTS1-700000798	\$272.53
NJTS1-700000801	\$64.48
NJTS1-700000810	\$1,851.20
NJTS1-700000828	\$616.13
NJTS1-700000836	\$1,303.10
NJTS1-700000844	\$459.07
NJTS1-700000852	\$195.63
NJTS1-700000860	\$1,513.43
NJTS1-700000879	\$345.03
NJTS1-700000887	\$361.08
NJTS1-700000895	\$332.92
NJTS1-700000909	\$1,533.09
NJTS1-700000917	\$304.04
NJTS1-700000925	\$1,271.70
NJTS1-700000933	\$1,437.80
NJTS1-700000941	\$733.42
NJTS1-700000950	\$1,127.15
NJTS1-700000968	\$3,805.86
NJTS1-700000976	\$153.14
NJTS1-700000984	\$327.02
NJTS1-700000992	\$250.60
NJTS1-700001000	\$494.32
NJTS1-700001018	\$414.71

**Exhibit 1 - Prorated Residual Distribution**

<b>ClaimID</b>	<b>Residual Payment Amount</b>
NJTS1-700001034	\$1,271.70
NJTS1-700001042	\$54.08
NJTS1-700001050	\$87.25
NJTS1-700001077	\$399.51
NJTS1-700001085	\$2,192.95
NJTS1-700001093	\$163.87
NJTS1-700001107	\$139.46
NJTS1-700001131	\$6,991.68
NJTS1-700001140	\$8.14
NJTS1-700001158	\$114.37
NJTS1-700001182	\$789.52
NJTS1-700001220	\$916.58
NJTS1-700001239	\$1,809.57
NJTS1-700001255	\$1,340.26
NJTS1-700001280	\$818.29
NJTS1-700001298	\$571.48
NJTS1-700001344	\$1,271.70
NJTS1-700001352	\$1,088.70
NJTS1-700001360	\$572.63
NJTS1-700001379	\$340.68
NJTS1-700001468	\$1,271.70
NJTS1-700001476	\$281.12
NJTS1-700001549	\$149.61
NJTS1-700001590	\$882.34
NJTS1-700001603	\$58.03
NJTS1-700001620	\$3,922.52
NJTS1-700001638	\$1,556.72
NJTS1-700001646	\$728.60
NJTS1-700001654	\$2,058.96
NJTS1-700001662	\$847.07
NJTS1-700001670	\$81.96
NJTS1-700001719	\$340.68
NJTS1-700001727	\$921.14
NJTS1-900000023	\$448.22
NJTS1-900000031	\$3,015.57
NJTS1-900000511	\$580.33
NJTS1-900000554	\$3,322.58
NJTS1-900000570	\$807.56
<b>Total</b>	<b>\$374,847.13</b>